IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 450 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS and
MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

ABDULKADAR RASULBHAI GALANI

Appearance:

Mr. B.D. Desai, A.P.P. for appellant.
Mr. P.M. Thakkar, advocate for respondents.
Mr. Adil P. Mehta, advocate for complainant.

CORAM : MR.JUSTICE K.R.VYAS and
MR.JUSTICE A.M.KAPADIA

Date of decision: 28/01/99

ORAL JUDGEMENT (Per A.M. Kapadia, J.)

1. By filing this appeal under Section 378 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'the Code' for short), the State of Gujarat has questioned the legality, validity and propriety of the judgment and order dated 30.3.1991 rendered by learned Additional Sessions Judge, Ahmedabad (Rural), Mirzapur,

at Ahmedabad, in Sessions Case No. 73 of 1990, acquitting the respondents herein who are the original accused, of the offences punishable under Sections 323, 324, 325, 504 and 114 of the Indian Penal Code ('IPC' for short hereinafter).

2. The facts relevant for the purpose of disposal of this appeal are as under:

2.1 At the relevant time, the complainant - Hanifaben Abdulsattar Mansuri, was residing with her family at Darji Ola, in Sub-District Dholka of District Ahmedabad. Her house has two doors. One opens in Darji Ola and another opens in Maniyar Ni Khadki. They got water connection from Darji Ola.

2.2 Two months prior to the incident, Nagarpalika erected a new pipe line in Maniyar Ni Khadki. The complainant was not getting water in full force from the pipe line which was taken from Darji Ola. Therefore, on 28.12.1989, at about 1 P.M., for the purpose of taking water connection from the newly erected pipe line from Maniyar Ni Khadki, the complainant's family members called a labourer for digging a pit.

2.3 Meanwhile, one Mohmedbhai, resident of Maniyar Ni Khadki came there and prevented her from taking water connection by digging pit and asked her for their contribution for the installation of said pipe line. At that time her mother-in-law and her husband Abdulsattar came there and told Mohmedbhai that they will pay their contribution to Nagarpalika. Inspite of that, said Mohmedbhai told that the pipeline was erected by the residents of Maniyar Ni Khadki by contributing money of their share and they used to manage the affairs of the pipe line. He, therefore, insisted for the contribution of share from the complainant. At that time also husband of the complainant told that they will pay the amount of their share to the administrator, who manages the affairs of the said pipeline. However, Mohmedbhai insisted and said that he will not allow them to take water connection unless and until they make payment of their share to him. Thereafter he started abusing by using filthy language and started quarrel which has increased within no time.

2.4 By that time, three brothers of Mohmedbhai came there with weapons. Abdulkadar Rasulbhai Galani and Mohmedyusuf Rasulbhai Galani were having iron pipe with them and Umarbhai Rasulbhai Galani was having a stick in his hand. Mohmedbhai Galani inflicted pipe blow on the head of the husband of the complainant and Abdulkadar

inflicted pipe blow on the left arm of the complainant. As a result of the blow she sustained fracture injury.

2.5 Meanwhile, complainant's sisterinlaw's son, Gulamdastgir came there and during his intervention he also received head injury. At the same time, her elder brother-in-law Allarakha came there on scooter and intervened and during his intervention he also received head injury. After that all of them went inside their house and closed doors.

2.6 In the said quarrel, the complainant - Hanifaben, her elder brother-in-law -Allarakha and son of her sister-in-law Gulamdastgir and the husband of the complainant received grievous injuries. Therefore, she lodged a complaint before Dholka Police Station on the same day. The said complaint is produced at Ex.13.

3. On the basis of the said complaint, offence was registered and investigation was started. On completion of the investigation, the accused persons were charge-sheeted for the commission of the alleged offences as mentioned hereinabove.

4. Incidentally, it may be mentioned here that in the said incident, accused party also received injuries and one Abdulla, on receiving fatal injuries, succumbed to the same. Therefore, separate complaint was also registered for the said offence against Allarakha, Abdulsattar and Gulamdastgir. As both the cases arose out of one and same incident, though the offence against the present respondents/original accused was triable by the Court of Magistrate, the case was committed to the Sessions Court, Ahmedabad (Rural) so that both the cases could be tried by one and the same Judge in order to appreciate the evidence in proper perspective. Hence, this case was also committed to the Sessions Court, Ahmedabad Rural.

5. On committal, the learned Additional Sessions Judge framed charge against the accused to which they denied and claimed to be tried. Therefore, they were put on trial.

6. In order to substantiate the charge levelled against the present respondents, the prosecution has examined in all 13 witnesses and placed reliance on the oral testimony of these witnesses and on a bunch of documents which were produced during the course of trial. The prosecution has examined five eye witnesses including four injured persons upon whose oral testimony much

reliance was placed.

7. On completion of recording of evidence of the prosecution witnesses, further statement of the accused under Section 313 of the Code was recorded. In further statement also they denied the charge levelled against them and they reiterated that they were falsely implicated in the crime and they did not pick up quarrel.

8. On evaluation and appreciation of the evidence led by the prosecution, learned Additional Sessions Judge came to the conclusion that the witnesses examined by the prosecution were not narrating the true version of the genesis of crime and its origin. The learned trial Judge also came to the conclusion that on material aspects they have made improvement in the prosecution story and none of the witnesses stuck to their original version which they have given before the police and, therefore, there were material contradictions in their oral testimony qua their complaint and police statement. The learned trial Judge concluded that the injuries caused to the complainant and the witnesses appear to be self-inflicted and, therefore, no reliance could be placed upon their oral testimony. It was further observed by the learned trial Judge that it is very difficult to find out as to who were the aggressors and who were the assailants first in point of time, out of these two groups. Therefore, according to the learned trial Judge, the prosecution has failed to establish the case against the respondents/original accused beyond reasonable doubt. He, therefore, came to the conclusion that the prosecution has failed to prove the case against the respondents/original accused and rsultantly he recorded the judgment and order of acquittal, which is now challenged before us in this appeal.

9. Mr. B.D. Desai, learned A.P.P. for the appellant State submitted that the totality of the evidence on record clinchingly proves the charge levelled against the accused. According to him, there was sufficient reason to believe that injuries were caused by the respondents/ original accused to the prosecution witnesses. Some omissions or contradictions here or there would not be fatal to the prosecution case. The injuries sustained by the prosecution witnesses were also proved. In this connection, medical evidence was also brought on record. He further submitted that the learned trial Judge has not considered the evidence of the witnesses and the injuries sustained by them and recorded the judgment of acquittal merely on surmises and assumptions. He further submitted that by not believing

five eye witnesses who were examined by the prosecution, the learned trial Judge has committed grave error in law as well as on facts. Thus, according to him, on appreciation of the evidence of the prosecution witnesses as a whole it is clear that their deposition is in consonance with each other. There is no contradiction in their evidence on material aspects and, therefore, there was no reason for the learned trial Judge to disbelieve their evidence and as the prosecution has established charge levelled against the accused beyond reasonable doubt, the judgment and order of recording acquittal is required to be quashed and set aside and the respondents/ original accused may be held guilty for the charge levelled against them and sentence them in accordance with law.

10. As against this submission, learned advocate Mr. Thakkar for the respondents/ original accused with all his vehemence submitted that totality of the prosecution evidence on record, if carefully and minutely examined and scanned in the limelight of the cardinal principles of criminal jurisprudence and on the principles of appreciation of evidence, would go to show that the prosecution has not only utterly and miserably failed to prove the charge against the respondents/ original accused beyond shadow of doubt but also reveals that a false and frivolous complaint was filed just with a view to save the complainant party from the clutches of the prosecution which was launched against them for commission of murder of Abdulla, and there is no reliable, cogent and trustworthy evidence. He did not rest here. According to him, injuries on the person of the witnesses were self-inflicted and they were trivial in nature. He further submitted that the complainant party were the aggressors and they picked up quarrel and in that quarrel they killed one Abdulla who belonged to the accused party. In view of the aforesaid state of affairs runs his further submission that no reliance can be placed upon the oral testimony of the witnesses examined by the prosecution and the learned trial Judge has very rightly recorded the judgment and order of acquittal against the respondents. He lastly submitted that the judgment and order impugned in this appeal does not warrant any interference at the hands of this Court and on the contrary it requires confirmation and he prayed that the appeal may be dismissed.

11. At the outset it cannot be disputed either by the complainant or by the accused that on 28.12.1989 at about 1.45 P.M. in Maniyar Ni Khadki in the sub-District of Dholka of District Ahmedabad, a quarrel between two

groups had taken place in respect of a pipeline for water supply in which one person named Abdulla of the present accused party met with a homicidal death on account of injuries sustained by him on his abdominal part. Two FIRs came to be lodged before Dholka Police Station for commission of two separate offences.

12. So far as the instant case is concerned, as per complaint at Ex.13, a new pipe line was erected at Maniyar Ni Khadki by Nagarpalika, but according to the defence, it was erected by the residents of Maniyar Ni Khadki by contributing funds by them. It cannot be disputed that the house of the present complainant has two doors, one opens at Darji Ola and another opens at Maniyar Ni Khadki. As per prosecution case, on the day of the alleged incidence, the complainant party engaged a labourer for digging a pit for the purpose of obtaining new water connection from Maniyar Ni Khadki. The accused party opposed this as the complainant party had not contributed for the installation of that pipe line. Because of this dispute a quarrel took place between both the parties. According to the prosecution version, the accused party started the quarrel and they were the aggressor while according to the defence, the complainant party first picked up quarrel and they were the aggressor.

13. Now, in this backdrop, let us examine whether the accused have assaulted the complainant and the witnesses and caused grievous hurt to them; in other words, whether the prosecution has proved the charge levelled against the accused or failed to prove the charge levelled against them.

14. Now, let us minutely examine and appreciate the evidence of the complainant Hanifaben, P.W.1, whose oral testimony was recorded at Ex.12. She has, inter alia, testified her family background. She has further testified that for the purpose of finding out whether their pipeline was having leakage or not, they dug a pit near the pipeline. The digging work was done by one Gulambhai. At that time, her husband Abdulsattar was present and it was about 1.30 P.M. At that time one Mohmedyusuf, accused No.3, came there and he asked them as to why they were digging pit. Her husband said that as there was less force in water, for the purpose of checking and confirming as to whether there was leakage in the pipeline or not, they were digging the pit. Thereafter accused No.3 abused him using filthy language. So she also went to the place of occurrence and she asked accused No.3 as to why he was using abusive language and

said that they will fill up the pit immediately after the checking was over. Meanwhile, brothers of accused No.3, who are accused No.1 and 2 and deceased Abdulla, came there and they all abused her husband using filthy language. When the quarrel was going on, her elder brother-in-law, Allarakha, also came on scooter to the scene of offence and tried to persuade the accused for stopping them from using abusive language and tried to explain that they were digging the pit for the purpose of checking their water connection. Meanwhile, quarrel picked up more force and Abdulla caught hold of the neck of Allarakha. Therefore, just to get rid of him, Allarakha gave a bite on the cheek of Abdulla as a result of which he could get himself freed from Abdulla. Meanwhile, Abdulla shouted to kill Allarakha and gave two blows with pipe on the head of Allarakha as a result of which Allarakha fell down. The complainant intervened and at that time, Abdulkadar, accused No.1, also gave a blow with iron pipe on the left arm of the complainant. Meantime, accused No.3, Mohmedyusuf Rasulbhai Galani, also gave a blow with iron pipe to her husband and for saving her husband her nephew, Gulamdastgir, intervened. He also received a blow with iron pipe inflicted by accused No.2. There was profuse bleeding from the ears and nose of Allarakha. When Allarakha fell down, the accused frightened and fled from the scene of occurrence. However, Abdulla, while running away from the scene of offence, fell on an iron nail which thrust into his stomach and he dashed with a stone of water pot and received injuries on his forehead. Thereafter the complainant, her husband, Allarakha and her nephew came to their house and they went to the dispensary in rickshaw. Thereafter she went to the police station and lodged the complaint.

15. The cross-examination of the complainant is bristled with so many contradictions. At some places she has accepted the contradictions and at her convenience she has also refused to admit some contradictions. However, those contradictions are proved from the evidence of the Investigating Officer.

16. In light of the oral evidence of the complainant, Hanifaben, coupled with her complaint, it could be seen that in complaint she has stated about taking a new connection from the newly erected pipe line from Maniyar Ni Khadki while in her oral evidence she has not stated about the new connection but stated that the pit was dug only for the purpose of checking their water connection. In her written complaint at Ex.13, she has also not stated anything about catching hold of neck of her

brother-in-law by Abdulla and to get rid of him, her brother-in-law gave a bite on the cheek of Abdulla. In the complaint she has also not stated that while running away Abdulla fell on an iron nail and received injury on abdomen and injury on forehead on account of dashing against a stone of water pot.

17. The sum and substance of her evidence is that she has given a total goby to her complaint at Ex.13. The prosecution could not explain as to what was the reason for Hanifaben to resile from her complaint. For this, the defence suggested at this stage was that the complainant Hanifaben has conveniently resiled from her complaint just with a view to get away from the clutches of crime which the complainant party committed during the course of the incident whereby Abdulla had received fatal injuries and succumbed to the same. Be the case as it may. We are of the opinion that the complainant Hanifaben has, on major aspects, resiled from her complaint for the reasons best known to her. Not only she has resiled but she has come out with a different story of checking of the pipe line. Therefore, according to us, no reliance whatsoever can be placed upon her oral testimony.

18. Now coming to the evidence of her injury, as per her case, she has received fracture on account of the blow given by accused No.1 with an iron pipe, on her left arm portion, while saving her elder brother-in-law Allarakha. In this connection, prosecution has examined two doctors. P.W.2, Dr. Dipakkumar R. Patel, whose oral testimony was recorded at Ex.15, has, inter-alia, testified that he examined Hanifaben on 28.12.1989 at 8.10 P.M. and found following injury on her person:

Clinically close isolated fracture lower 4th left side ulna and without N.V. deficit.
X-ray showed fracture of left ulna.

19. During cross-examination, he has unequivocally admitted that fracture of ulna bone was possible by a fall and when blow is given with pipe on bony part, it would cause bruise or contusion. Ulna is a bony part of the body. There was no external mark of injury on the ulna bone of the patient or any part of the hand.

20. Learned advocate Mr. P.M. Thakkar for the respondents/ original accused has submitted that when a person receives injury on account of a blow with a pipe on a bony part, external mark of injury on that bony part is bound to be there but in the instant case there was no

bruise or contusion on the part of ulna bone. Therefore, this is a doubtful proposition that Hanifaben received fracture injury because of blow with a pipe. We are not much impressed with the submission of learned advocate Mr. Thakkar. The doctor has categorically stated that X-ray showed fracture of left ulna. In this connection, the prosecution has also examined P.W.4, Dr. Anupsinh, whose oral testimony was recorded at Ex.21. It may be appreciated that Hanifaben went to him at 4.10 P.M. without police yadi and on examination he found the following injury:

Contusion on left forearm with probable fracture.

21. The said doctor has examined Hanifaben without any X-ray plate and he has stated that there was probability of a fracture on left forearm. Therefore, possibility cannot be ruled out that in the said quarrel Hanifaben received fracture injury. But as her evidence is contradicted with her own complaint on material aspects, we have our own doubts about the authorship of the injury as to whether she received fracture injury because of blow given by accused No.1 with pipe. We are very much aware of the fact that this was a case of free fight. Therefore, when the complainant has not given correct version on material aspects, i.e., the manner and method in which the incident had taken place and when genesis of the crime is suppressed by her, we are of the opinion that no reliance can be placed on her testimony with respect to the injury which she has received because of the alleged blow given by accused No.1.

22. Now let us advert to the oral testimony of P.W.6, Allarakha, whose oral testimony was recorded at Ex.37. According to prosecution, he has received some serious injuries on his head. We need not narrate his oral testimony as his version was mere reiteration of the say of the complainant so far as happening of the incident is concerned. He also came with the same story that Abdulla caught hold of his neck forcibly and to get rid of him and to get himself freed from the catch of Abdulla, he gave a bite on the cheek of Abdulla. Meanwhile, Abdulla shouted to kill him and gave two blows with iron pipe on his head. So far as cross-examination of this witness is concerned, it is full of contradictions. He also has not stuck to his version stated before police. In the police statement he has narrated the incident as stated by the complainant in the complaint Ex.13. The contradictions found in his cross-examination are proved either from his own evidence or from the evidence of the Investigating Officer and, therefore, oral testimony of this witness

also is not creditworthy and hence no reliance whatsoever can be placed upon his oral testimony.

23. Now let us examine the injuries which he has received. In this connection, according prosecution version itself there is variance in the opinion of two doctors. Firstly he was examined by P.W.4, Dr. Anupsinh, who was examined at Ex.21. He has testified that on 28.12.1989 at about 4.30 P.M. Allarakha came to his dispensary without police yadi and he noticed following injuries:

> C.L.W. on right parietal region. Patent had grievous injury and was semi conscious and was bleeding from nose and ear and, therefore, for further treatment he was sent to Ahmedabad.

Therefore, according to this doctor, Allarakha had a contused lacerated wound on right parietal region. There was bleeding from nose and ear and the patient was in semi conscious condition and, therefore, for further treatment he sent the patient to Ahmedabad.

24. Now let us examine the evidence of the doctor of V.S. Hospital, Ahmedabad, P.W.5, Dr. Nipam Mistry, who was examined at Ex.26. He has testified that on 28.12.1989 at 6.40 P.M., Allarakha was brought to the hospital by his relatives for treatment on reference of the doctor from Dholka. No external mark of injury was found and there was pain over the head and left forearm. There was bleeding from right ear. The medical certificate issued by him is produced at Ex.28. He has further testified that he treated the patient from 28.12.1989 to 31.12.1989 and discharged on 3.1.1990. The case papers of indoor treatment are produced at Ex.29. In cross-examination he has admitted that the patient was brought without police yadi. He has further stated that a note was made by him that there was no mark of external injuriy nor was there any leakage or discharge of C.S.F. There was no leakage of discharge from the outer coverings of the brain. Bleeding from ear does not indicate that there was any damage to the brain.

25. By referring to the evidence of two doctors, Mr. Thakkar for the accused/respondents tried to persuade us by submitting that when there was variance in the evidence of two doctors with respect to injuries which Allarakha sustained and when it is not proved as to which doctor has given correct evidence about the injuries sustained by him, no reliance can be placed upon the oral testimony of Allarakha.

26. On overall appreciation of the evidence of the complainant coupled with the evidence of doctors, it cannot be gainsaid that Allarakha had received some injury on right parietal region. There was bleeding from nose and ear. But we fail to understand as to why he went to the hospital without police yadi when he had received head injury and the complaint was already lodged at about 3.45 P.M. No explanation is forth-coming in respect of this fact which raises serious doubt on the creditworthiness of the evidence of this witness. Moreover, as noted hereinabove and at the cost of repetition we may say that he has also resiled from his statement made before the police and has come out with a story convenient to him for the reasons best known to him. Therefore, his oral testimony does not inspire any confidence and no reliance can be placed upon the same.

27. Now let us examine the oral testimonies of P.W.8, Abdulsattar, who was examined at Ex.41 and P.W.9, Gulamdastgir, who was examined at Ex.42. It may be appreciated that they have also stated similar version before the police as stated by the complainant in her written complaint and they have also resiled from their police statement and they have also come out with the same story as stated by the complainant Hanifaben and witness Allarakha before the Court.

28. It would not be out of place to mention that so far as the evidence of Abdulsattar is concerned, he is brother of Allarakha. So far as Gulamdastgir is concerned, he is nephew of Allarakha. They both are related witnesses and, therefore, interested persons. They were also examined by P.W. 4, Dr. Anupsinh, whose oral testimony was recorded at Ex.21. He noticed very trivial and superficial injuries like C.L.W. on the person of both these witnesses.

29. In view of the aforesaid state of affairs, as it was a free fight between two groups, possibility cannot be ruled out that both of them might have received injuries. Their oral testimonies are full of contradictions and authorship of the injuries could not be established by the prosecution and, therefore, their oral testimonies also do not inspire any confidence and the same cannot be called trustworthy, unimpeachable and cogent.

30. Now we may examine the evidence of the last eye witness, P.W.3, Gulamhusain, who was examined at Ex.19. He was the labourer engaged by the complainant party for

digging pit at the relevant time. He has also not stated the correct version of the prosecution case. In the examination-in-chief he has come out with the same story as stated by the complainant and witnesses who happened to be members of the same family members, contrary to his statement before police. Such contradictions are proved and in cross-examination he has unequivocally admitted such contradictions.

31. It may be noted here that so far as panch witnesses with respect to the recovery of weapons, scene of offence, etc., are concerned, they have not supported the prosecution case and resiled from whatever have been mentioned in the panchnama and they were, therefore, declared hostile. We, therefore, do not deem it expedient much less imperative to discuss their evidence with a view to avoid the burdening of the judgment.

32. Now, on the overall appreciation of the evidence of the above mentioned five witnesses, including the complainant, and the injuries which were found on the person of complainant Hanifaben and witness Allarakha, following highlights would emerge:

(a) The prosecution story narrated by each witness is not consistent with their version before police and they have resiled from police statement.

(b) As per complaint, complainant party engaged a labourer for digging pit for the purpose of taking a new water connection at the time of the incident while a per oral evidence of the witnesses they were digging pit to check as to whether there was leakage in the pipeline as they were not getting water in force from the pipeline.

(c) It is not denied by the complainant that in Maniyar-Ni-Khadki the new pipeline which was erected was at the expenses of residents of that locality.

(d) It is also not disputed that the complainant party had not contributed their share for erecting the pipeline at Maniyar-Ni-Khadki.

(e) It has also come in evidence that the complainant had not obtained permission from the Municipality for getting new water connection from Maniyar-Ni-Khadki.

(f) Injuries sustained by the witnesses were very trivial and there is variance in the evidence of two doctors, one doctor of P.H.C. and another of V.S.Hospital, Ahmedabad.

(g) Most of the witnesses have not disclosed their injuries in the police statement and for the first time they have given the story of having received injuries during the course of the incident, at the time of recording their oral testimony before the Court.

(h) All the witnesses have gone for medical treatment without police yadi though the police station and P.H.C. are within the immediate vicinity and this creates serious doubt about the prosecution version as to the identity of the person who obtained certificate.

(i) Star witness, the complainant Hanifaben, has given total goby to her complaint at Ex.13 and has given another story in her oral testimony before the Court.

(j) Genesis of the crime is suppressed by all the witnesses.

(k) Who was the aggressor first in point of time is not proved.

(l) None of the witnesses examined by the prosecution is of sterling quality.

33. In view of the discussion made hereinabove and considering the facts and circumstances of the case, it is abundantly clear that the evidence adduced by the prosecution is not reliable and trustworthy on which conviction can be based against the accused. Hence, the conclusion arrived at by the learned trial Judge can never be said to be perverse of erroneous. In the facts and circumstances and in the set of evidence adduced by the prosecution, no conclusion other than the one arrived at by the learned trial Judge is possible. On the contrary, the learned trial Judge has very rightly appreciated the evidence adduced by the prosecution and has recorded the finding of acquittal which requires no interference by this Court. On the contrary, it requires affirmation.

34. Moreover, this is an acquittal appeal in which Court would be slow to interfere with the order of

acquittal. Infirmities in the prosecution case go to the root of the matter and strike a vital blow on the prosecution case. In such a case, it would not be safe to set aside the order of acquittal, more particularly, when the evidence has not inspired confidence of the learned trial Judge. As this Court is in general agreement with the view expressed by the learned trial Judge, it is not necessary for this Court either to reiterate the evidence of the prosecution witnesses or to restate reasons given by the learned trial Judge for acquittal and in our view, expression of general agreement with the view taken by the learned trial Judge would be sufficient in the facts of the present case for not interfering with the judgment of the learned trial Judge and this is so, in view of the decisions rendered by the Hon'ble Supreme court in the case of Girija Nandini Devi and others v. Bijendra Narain Chaudhari, AIR 1967 SC 1124 and State of Karnataka v. Hema Reddy and another, AIR 1981 SC 1417. On overall appreciation of evidence, this court is satisfied that there is no infirmity in the reasons assigned by the learned trial Judge for acquitting the respondents/ original accused. Suffice it to say that the learned trail Judge has given cogent and convincing reasons for acquitting the respondents/ original accused and the learned A.P.P. has failed to dislodge the reasons given by the learned trial Judge and convince this Court to take a view contrary to the one taken by the learned trial Judge. Therefore, there is no merits in the acquittal appeal.

35. In the result, the judgment and order impugned in this appeal is confirmed. The appeal being devoid of any merits is dismissed.

(karan)